

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HIGHWAY MATERIALS, INC.,

Plaintiff/Appellant,

v.

WHITEMARSH TOWNSHIP,
MONTGOMERY COUNTY, PA;
THE BOARD OF SUPERVISORS OF
WHITEMARSH TOWNSHIP,
MONTGOMERY COUNTY, PA.; ANN D.
YOUNGLOVE, INDIVIDUALLY AND IN
HER CAPACITY AS CHAIRMAN OF THE
BOARD OF SUPERVISORS; RONALD J.
DEROSA, INDIVIDUALLY AND IN HIS
CAPACITY AS VICE CHAIRMAN;
WILLIAM P. RIMEL, III, INDIVIDUALLY
AND IN HIS CAPACITY AS SUPERVISOR;
PETER B. CORNOG, INDIVIDUALLY AND
IN HIS CAPACITY AS SUPERVISOR;
MICHAEL A. ZEOCK, INDIVIDUALLY
AND IN HIS CAPACITY AS SUPERVISOR;
THOMAS F. ZARKO, INDIVIDUALLY
AND IN HIS CAPACITY AS TOWNSHIP
ENGINEER,

Defendants/Appellees.

CIVIL ACTION NO. 02-3212

**NOTICE OF APPEAL
OF PLAINTIFF HIGHWAY MATERIALS, INC. TO THE
UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT**

Notice is hereby given that Highway Materials, Inc. ("HMI"), plaintiff in the above-captioned case, hereby appeals to the United States Court of Appeals for the Third Circuit from the October 4, 2004 Orders of the United States District Court for the Eastern District of

Pennsylvania, entered on October 5, 2004, which granted defendants' Motion for Summary Judgment and entered judgment in favor of defendants, as well as from the Court's accompanying Memorandum Opinion. (District Court Docket Entry Nos. 76 & 77.)

Dated: October 29, 2004

Michael Sklaroff, Esquire
Walter M. Einhorn, Jr., Esquire
Lawrence D. Berger, Esquire
Arleigh P. Helfer III, Esquire
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Attorneys for Plaintiff/Appellant
Highway Materials, Inc.

CERTIFICATE OF SERVICE

I, Arleigh P. Helfer III, hereby certify that on the 29th day of October, 2004, I caused a true and correct copy of the foregoing Notice of Appeal to be served upon counsel for Defendants and Intervenors as follows:

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Attorneys for Intervenors

A courtesy copy has also been delivered by hand to:

The Honorable Robert F. Kelly
U.S. Courthouse
601 Market Street, Room 11613
Philadelphia, PA 19106

Arleigh P. Helfer III